IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.609 OF 2004

Shri Baburao Shivappa Aherwadi
(Ambadas @ Bapu Shivappa Aherwadi) ..Appellant

Versus

Shri Ambadas Shivappa Aherwadi
(Shri Ambana @ Anil Shivappa Aherwadi) ..Respondent

Mr.G.S.Godbole with S.M.Sahasrabudhe for appellant

CORAM : P.V.KAKADE, J.

DATE : 14TH JUNE, 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the Addl. District Judge, Solapur dismissing the appeal and confirming the order passed by Joint Civil Judge, Junior Division, Solapur dated 31st October, 2001 partly decreeing the

suit for declaration and perpetual injunction.

2. I heard Mr. Godbole, the learned counsel for the appellant. Perused the record.

3. The issue involved in this appeal was pertaining to misappropriation of the Kerosene Hawker Permit No.836 by defendant by inserting his name in the name of Plaintiff and misusing the said licence. Both the courts below have come to the conclusion that the plaintiff had proved his real name was Ambadas and defendant's real name was Baburao and fact that at the time of partition on demand of defendant the plaintiff had given his Kerosene Hawker Permit for temporary period to the defendant for his livelihood. It is also proved that in order to misappropriate the document of hawker permit the defendant prepared false document showing himself as Baburao @ Ambadas Shivappa Aherwadi and managed to get transferred Kerosene Hawker Permit in his name. In view of this factual aspect and on the basis of evidence on record both the courts below have held that the plaintiff is entitled to decree of declaration and perpetual injunction against the defendant.

4. On perusal of the judgment of both the courts below it is apparent that they have appreciated the factual aspect of the evidence on record in proper perspective and no substantial question of law is involved in this appeal.

5. In the result the appeal has no merits and stands dismissed.

6. Consequently the civil application no.665 of 2004 also stands dismissed.